

1 GILBERT R. SEROTA (No. 75305)
Email: gserota@howardrice.com
2 JASON M. SKAGGS (No. 202190)
Email: jskaggs@howardrice.com
3 JEREMY T. KAMRAS (No. 237377)
Email: jkamras@howardrice.com
4 HOWARD RICE NEMEROVSKI CANADY
FALK & RABKIN
5 A Professional Corporation
Three Embarcadero Center, 7th Floor
6 San Francisco, California 94111-4024
Telephone: 415/434-1600
7 Facsimile: 415/217-5910

8 THOMAS O. JACOB (No. 125665)
Email: tojacob@wellsfargo.com
9 WELLS FARGO LAW DEPARTMENT
MAC A0194-266
10 45 Fremont Street, 26th Floor
San Francisco, CA 94105
11 Telephone: 415/396-4425
Facsimile: 415/975-7864
12

Attorneys for Defendants
13 WELLS FARGO & COMPANY, WELLS FARGO
FUNDS MANAGEMENT, LLC, WELLS FARGO
14 FUNDS TRUST, WELLS FARGO FUNDS
DISTRIBUTOR, LLC, STEPHENS, INC., and
15 WELLS FARGO BANK, N.A.

16 UNITED STATES DISTRICT COURT
17 NORTHERN DISTRICT OF CALIFORNIA
18 SAN FRANCISCO DIVISION
19

20 ARNOLD KREEK, Individually And On Behalf
Of All Others Similarly Situated,

21 Plaintiffs,

22 v.

23 WELLS FARGO & COMPANY, WELLS
24 FARGO FUNDS MANAGEMENT, LLC,
WELLS FARGO FUNDS TRUST, WELLS
25 FARGO DISTRIBUTORS, STEPHENS, INC.,
WELLS FARGO BANK, N.A.,

26 Defendants.
27
28

No. CV-08-1830 WHA

Action Filed: April 4, 2008

**DECLARATION OF JEREMY
KAMRAS IN SUPPORT OF
DEFENDANTS' SUBMISSION RE
EDWARD LEE'S MOTION TO BE
APPOINTED LEAD PLAINTIFF**

1 I, Jeremy T. Kamras, declare as follows:

2 1. I am an attorney licensed to practice law in the State of California and a member of the
3 bar of this Court. I am an associate at the law firm of Howard, Rice, Nemerovski, Canady, Falk &
4 Rabkin, and am one of counsel of record for Defendants Wells Fargo & Company, Wells Fargo
5 Funds Management, LLC, Wells Fargo Funds Trust, Wells Fargo Funds Distributor, LLC, Stephens,
6 Inc., and Wells Fargo Bank, N.A. in the above-captioned matter, and make this declaration in
7 support of Defendants' Submission Re Lead Plaintiff Motion. I make this declaration based upon
8 my personal knowledge of the matters stated herein. If called as a witness, I could and would testify
9 competently to the facts stated herein.

10 2. On August 7, 2008, I accessed the Yahoo! Finance internet site at finance.yahoo.com,
11 and printed from that site certain of the historical share prices for the Wells Fargo Advantage
12 Specialized Tech Fund (WFSTX). Attached hereto as Exhibit A is a true and correct copy of the
13 computer print-out. At page 1 of Exhibit A, I have underlined the share price for the date on which
14 putative lead plaintiff Edward Lee represents he sold shares in the Specialized Tech Fund.

15 3. Attached hereto as Exhibit B is a true and correct copy of an email dated July 31, 2008
16 from Michael Reese to myself.

17 4. Attached hereto as Exhibit C is a true and correct copy of a letter dated August 8, 2008
18 sent by email from Michael Reese to Gilbert Serota.

19 I declare under penalty of perjury under the laws of the United States of America that the
20 foregoing is true and correct.

21 Executed on August 8, 2008 in San Francisco, California.

22
23
24 /s/
JEREMY T. KAMRAS

EXHIBIT A

Yahoo! My Yahoo! Mail More

Make Y! My Home Page

New User? Sign Up Sign In

YAHOO! FINANCE

Search

WEB SEARCH

Dow ↓ 0.97% Nasdaq ↓ 0.11%

Thu, Aug 7, 2008, 2:01PM ET - U.S. Markets clo

GET QUOTES

Finance Search

Wells Fargo Advantage Specialized Tech A (WFSTX)

On Aug 6: 6.39 ↑

AMERITRADE
\$9.99 trades.
No surprises.

\$7 Online Trades
Scottrade

100 *
FREE TRADES
EXTENDE SECURITIES LLC

ACTIVE TRADERS
Fidelity

Historical Prices

Get Historical Prices for:

GO

SET DATE RANGE

Start Date: Jun 6 2003 Eg. Jan 1, 2003
End Date: Jul 6 2007

- ☒ Daily
☐ Weekly
☐ Monthly
☐ Dividends Only

Get Prices

First | Prev | Next | Last

PRICES

Date	Open	High	Low	Close	Volume	Adj Close*
6-Jul-07	6.63	6.63	6.63	6.63	0	6.63
5-Jul-07	6.57	6.57	6.57	6.57	0	6.57
3-Jul-07	6.52	6.52	6.52	6.52	0	6.52
2-Jul-07	6.49	6.49	6.49	6.49	0	6.49
29-Jun-07	6.39	6.39	6.39	6.39	0	6.39
28-Jun-07	6.39	6.39	6.39	6.39	0	6.39
27-Jun-07	6.37	6.37	6.37	6.37	0	6.37
26-Jun-07	6.31	6.31	6.31	6.31	0	6.31
25-Jun-07	6.33	6.33	6.33	6.33	0	6.33
22-Jun-07	6.35	6.35	6.35	6.35	0	6.35
21-Jun-07	6.37	6.37	6.37	6.37	0	6.37
20-Jun-07	6.30	6.30	6.30	6.30	0	6.30
19-Jun-07	6.35	6.35	6.35	6.35	0	6.35
18-Jun-07	6.33	6.33	6.33	6.33	0	6.33
15-Jun-07	6.28	6.28	6.28	6.28	0	6.28

ADVERTISEMENT

19-Apr-07	5.83	5.83	5.83	5.83	0	5.83
18-Apr-07	5.87	5.87	5.87	5.87	0	5.87
17-Apr-07	5.89	5.89	5.89	5.89	0	5.89
16-Apr-07	5.91	5.91	5.91	5.91	0	5.91
13-Apr-07	5.84	5.84	5.84	5.84	0	5.84
12-Apr-07	5.85	5.85	5.85	5.85	0	5.85
11-Apr-07	5.82	5.82	5.82	5.82	0	5.82
10-Apr-07	5.86	5.86	5.86	5.86	0	5.86
9-Apr-07	5.84	5.84	5.84	5.84	0	5.84
5-Apr-07	5.84	5.84	5.84	5.84	0	5.84
4-Apr-07	5.81	5.81	5.81	5.81	0	5.81
3-Apr-07	5.78	5.78	5.78	5.78	0	5.78

* Close price adjusted for dividends and splits.

[First](#) | [Prev](#) | [Next](#) | [Last](#)

 [Download To Spreadsheet](#)

 [Add to Portfolio](#)  [Set Alert](#)  [Email to a Friend](#)

Get **Historical Prices** for Another Symbol:

[Symbol Lookup](#)

- [Stock Screener](#)
- [Mergers & Acquisitions](#)
- [Splits](#)

Copyright © 2008 Yahoo! Inc. All rights reserved. [Privacy Policy](#) - [Terms of Service](#) - [Copyright/IP Policy](#) - [Send Feedback](#)

Quotes delayed, except where indicated otherwise.

Delay times are 15 mins for NASDAQ, NYSE and Amex. See also delay times for [other exchanges](#).

Historical chart data and daily updates provided by [Commodity Systems, Inc. \(CSI\)](#). International historical chart data and daily updates provided by [Hemscott Americas](#). Fundamental company data provided by [Capital IQ](#). Quotes and other information supplied by independent providers identified on the Yahoo! Finance [partner page](#). Quotes are updated automatically, but will be turned off after 25 minutes of inactivity. Quotes are delayed at least 15 minutes. Real-Time continuous streaming quotes are available through our [premium service](#). You may turn streaming quotes on or off. All information provided "as is" for informational purposes only, not intended for trading purposes or advice. Neither Yahoo! nor any of independent providers is liable for any informational errors, incompleteness, or delays, or for any actions taken in reliance on information contained herein. By accessing the Yahoo! site, you agree not to redistribute the information found therein.

Yahoo! My Yahoo! Mail More

Make Y! My Home Page

New User? Sign Up Sign In

YAHOO! FINANCE

Search

WEB SEARCH

Dow ↓ 0.91% Nasdaq ↓ 0.10%

Thu, Aug 7, 2008, 2:00PM ET - U.S. Market

GET QUOTES

Finance Search

Wells Fargo Advantage Specialized Tech A (WFSTX)

On Aug 6: **6.39** ↑



Historical Prices

Get Historical Prices for:

GO

SET DATE RANGE

Start Date: Jun 6 2003 Eg. Jan 1, 2003
End Date: Jul 6 2007

- ☒ Daily
- ☐ Weekly
- ☐ Monthly
- ☐ Dividends Only

Get Prices

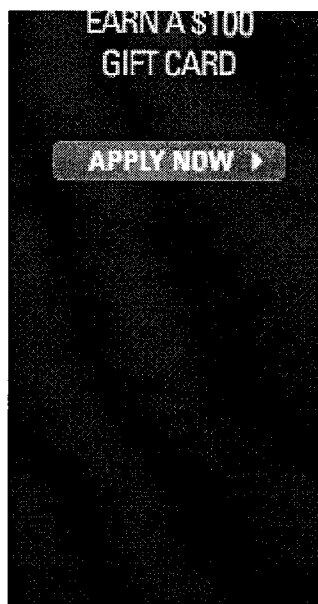
[First](#) | [Prev](#) | [Next](#) | [Last](#)

PRICES

Date	Open	High	Low	Close	Volume	Adj Close*
30-Jul-03	3.60	3.60	3.60	3.60	0	3.60
29-Jul-03	3.64	3.64	3.64	3.64	0	3.64
28-Jul-03	3.67	3.67	3.67	3.67	0	3.67
25-Jul-03	3.65	3.65	3.65	3.65	0	3.65
24-Jul-03	3.62	3.62	3.62	3.62	0	3.62
23-Jul-03	3.63	3.63	3.63	3.63	0	3.63
22-Jul-03	3.62	3.62	3.62	3.62	0	3.62
21-Jul-03	3.56	3.56	3.56	3.56	0	3.56
18-Jul-03	3.59	3.59	3.59	3.59	0	3.59
17-Jul-03	3.51	3.51	3.51	3.51	0	3.51
16-Jul-03	3.70	3.70	3.70	3.70	0	3.70
15-Jul-03	3.77	3.77	3.77	3.77	0	3.77
14-Jul-03	3.81	3.81	3.81	3.81	0	3.81
11-Jul-03	3.68	3.68	3.68	3.68	0	3.68
10-Jul-03	3.68	3.68	3.68	3.68	0	3.68

ADVERTISEMENT

9-Jul-03	3.83	3.83	3.83	3.83	0	3.83
8-Jul-03	3.76	3.76	3.76	3.76	0	3.76
7-Jul-03	3.67	3.67	3.67	3.67	0	3.67
3-Jul-03	3.51	3.51	3.51	3.51	0	3.51
2-Jul-03	3.53	3.53	3.53	3.53	0	3.53
1-Jul-03	3.44	3.44	3.44	3.44	0	3.44
30-Jun-03	3.40	3.40	3.40	3.40	0	3.40
27-Jun-03	3.35	3.35	3.35	3.35	0	3.35
26-Jun-03	3.35	3.35	3.35	3.35	0	3.35
25-Jun-03	3.25	3.25	3.25	3.25	0	3.25
24-Jun-03	3.24	3.24	3.24	3.24	0	3.24
23-Jun-03	3.25	3.25	3.25	3.25	0	3.25
20-Jun-03	3.33	3.33	3.33	3.33	0	3.33
19-Jun-03	3.36	3.36	3.36	3.36	0	3.36
18-Jun-03	3.42	3.42	3.42	3.42	0	3.42
17-Jun-03	3.42	3.42	3.42	3.42	0	3.42
16-Jun-03	3.38	3.38	3.38	3.38	0	3.38
13-Jun-03	3.29	3.29	3.29	3.29	0	3.29
12-Jun-03	3.36	3.36	3.36	3.36	0	3.36
11-Jun-03	3.34	3.34	3.34	3.34	0	3.34
10-Jun-03	3.30	3.30	3.30	3.30	0	3.30
9-Jun-03	3.26	3.26	3.26	3.26	0	3.26
6-Jun-03	3.30	3.30	3.30	3.30	0	3.30



* Close price adjusted for dividends and splits.

[First](#) | [Prev](#) | [Next](#) | [Last](#)

[Download To Spreadsheet](#)

[Add to Portfolio](#) [Set Alert](#) [Email to a Friend](#)

Get **Historical Prices** for Another Symbol: [Symbol Lookup](#)

- [Stock Screener](#)
- [Mergers & Acquisitions](#)
- [Splits](#)

Copyright © 2008 Yahoo! Inc. All rights reserved. [Privacy Policy](#) - [Terms of Service](#) - [Copyright/IP Policy](#) - [Send Feedback](#)

Quotes delayed, except where indicated otherwise.

Delay times are 15 mins for NASDAQ, NYSE and Amex. See also delay times for [other exchanges](#).

Historical chart data and daily updates provided by [Commodity Systems, Inc. \(CSI\)](#). International historical chart data and daily updates provided by [Hemscott Americas](#). Fundamental company data provided by [Capital IQ](#). Quotes and other information supplied by independent providers identified on the Yahoo! Finance [partner page](#). Quotes are updated automatically, but will be turned off after 25 minutes of inactivity. Quotes are delayed at least 15 minutes. Real-Time continuous streaming quotes are available through our [premium service](#). You may turn streaming quotes on or off. All information provided "as is" for

informational purposes only, not intended for trading purposes or advice. Neither Yahoo! nor any of independent providers is liable for any informational errors, incompleteness, or delays, or for any actions taken in reliance on information contained herein. By accessing the Yahoo! site, you agree not to redistribute the information found therein.

EXHIBIT B

From: michael@reeserichman.com
Sent: Thursday, July 31, 2008 10:06 AM
To: Jeremy T. Kamras; michael@reeserichman.com
Cc: Gilbert R. Serota; Jason Skaggs
Subject: Re: Kreek v. Wells Fargo -- Lee's Response to Court-Ordered Questionnaire

Dear Jeremy:

This is in response to your email from last week with questions regarding Mr. Lee's submission to Judge Alsup. With respect to your question regarding losses listed on Mr. Lee's submission, my understanding is that the loss calculation was provided to Mr. Lee by his broker and is based upon average cost basis. The average cost basis of a mutual fund is often more than the purchase price because it includes capital gain distributions that mutual funds are required to make each year. These capital gain distributions are often reinvested, thereby changing the average cost basis. Because this calculation quickly can become complicated when numerous shares are involved over a several year period, people often depend on their broker to calculate the number for them, as Mr. Lee did here.

That said, the loss based upon average cost basis listed on Mr. Lee's submission is not the same as damages that Mr. Lee, and other class members, seek through this litigation. Instead, that loss is based upon the fees that Mr. Lee and others paid that were diverted for undisclosed purposes, *i.e.* to influence brokers and other selling agents to sell Wells Fargo mutual funds.

Please let me know if you have any more questions. - Michael

Michael R. Reese
Reese Richman LLP
230 Park Avenue, 10th Floor
New York, New York 10169
(212) 579-4625

-----Original Message-----

From: Jeremy T. Kamras [mailto:jkamras@howardrice.com]
Sent: Thursday, July 24, 2008 06:47 PM
To: michael@reeserichman.com
Cc: 'Gilbert R. Serota', 'Jason Skaggs'
Subject: Kreek v. Wells Fargo -- Lee's Response to Court-Ordered Questionnaire

Michael:

As you will no doubt recall, in Judge Alsup's order dated June 30, 2008, he ordered that "[d]efense counsel should be prepared to address the accuracy of the methodology used by candidates [for lead plaintiff] to assess their damage claims." To that end, we have reviewed Mr. Lee's response to the Court-ordered questionnaire. As we understand the response, Mr. Lee has sold one of the three positions he held, *i.e.* WFSTX. We further understand that he bought 1065.897 shares of WFSTX for \$3.40 per share or \$3,624.05 in total, and sold all of his shares of WFSTX for \$7,066.90. Please confirm that this is correct.

We would also like the following information in advance of the August 7 hearing on Mr. Lee's application:

1. In his answer to Question 5, Mr. Lee refers to "Avg Cost Bases." What does that refer to?
2. Mr. Lee calculates the "Avg Cost Bases" as \$8,252.31. Please explain the derivation of this figure.
3. Mr. Lee also claims a loss of \$1,185.41, which appears to be the difference between the "Avg Cost Bases" and the "proceeds from [the] sale" of Mr. Lee's holdings in WFSTX. Please explain the source of this loss, particularly in light of the fact that Mr. Lee appears to have sold his holdings in WFSTX for about \$3,400 more than he purchased them for.

Thanks,
Jeremy

8/8/2008



JEREMY T. KAMRAS

HOWARD RICE NEMEROVSKI CANADY FALK & RABKIN, A Professional Corporation
Three Embarcadero Center, Seventh Floor, San Francisco, CA 94111-4024
T 415.434.1600 ? F 415.217.5910 ? DD 415.765.7913
jkamras@howardrice.com ? <http://www.howardrice.com/>

This message and any files or text attached to it are intended only for the recipients named above, and contain information that may be confidential or privileged. If you are not an intended recipient, you must not read, copy, use or disclose this communication. Please also notify the sender by replying to this message, and then delete all copies of it from your system. Thank you.

8/8/2008

EXHIBIT C

August 8, 2008

Via Electronic Mail

Gilbert R. Serota

HOWARD RICE NEMEROVSKI CANADY**FALK & RABKIN, P.C.**Three Embarcadero Center, 7th Floor
San Francisco, California 94111-4024

Telephone: 415/434-1600

Facsimile: 415/217-5910

gserota@howardrice.com

Re: Kreek v. Wells Fargo & Co. et al.

Case no. CV 08-1830 WHA

Dear Gil:

I wanted to further address the two arguments you made at yesterday's hearing. I believe they are based on a misunderstanding of the documents and, consequently, do not warrant motion practice. Furthermore, given that I have provided further explanation below that shows the arguments are without merit, I believe that any motion attacking Mr. Lee's qualification to serve as the named plaintiff based upon your arguments raised yesterday would be frivolous.

With respect to the first argument – that Mr. Lee's certification contradicts his responses to Judge Alsup's questionnaire – as I pointed out yesterday, pursuant to the requirements of the Private Securities Litigation Reform Act of 1995 ("PSLRA") the certification asks only for transactions *made during the Class Period*. See 15 U.S.C. § 78(j) *et seq.* (the certification must set "forth all of the transactions of the plaintiff in the security that is the subject of the complaint during the *class period specified in the complaint*") (*emphasis added*). As stated on Mr. Lee's certification, the Class Period is November 4, 2000 to April 11, 2006. Mr. Lee's certification lists all of his transactions for the securities at issue during that period. Judge Alsup's questionnaire, however, asks for transactions of the securities at issue at any time, specifically asking for transactions "not just during the Class Period." See *Request for Information From Lead Plaintiff Candidates* (Dkt. 28). Accordingly, Mr. Lee listed on Judge Alsup's questionnaire a transaction that was not on the certification because that transaction occurred *after the Class Period*. In other words, Mr. Lee accurately provided the information requested in both the certification and questionnaire and there is no "contradiction" as you first asserted yesterday. While I believe you conceded the error of your argument after I pointed these facts out to Judge Alsup yesterday, I wanted to make clear that we are in agreement that there is no issue here.

With respect to your second argument regarding the average cost basis loss listed by Mr. Lee on the questionnaire (again, with respect to a transaction that occurred after the Class Period), this entry by Mr. Lee is correct. As I stated to Judge Alsup yesterday, that information was provided to Mr. Lee by his broker at Charles Schwab. I also showed you Charles Schwab documentation relied upon by Mr. Lee that demonstrates the accuracy of Mr. Lee's response.

Calculating the Average Cost Basis for a mutual fund is not as simple as deducting the purchase price from the sale price. Rather, it is a complicated equation using a methodology approved of by the Internal Revenue Service that involves a myriad of inputs, including, but not

Gilbert R. Serota

August 8, 2008

-page 2 -

limited to, sales charges and redemption fees paid by the investor, and is calculated for purposes of determining capital gains and loss. Furthermore, it does not necessarily change the number of shares purchased or sold (they can be the same) as you seem to believe. For example, if investor A bought 10 B shares of XYZ mutual fund in Year 1 for 100 dollars (at \$10 a share), and sold a year later at \$10.20 a share (\$102 in total) while paying a deferred sales charge of five percent (5%) and a redemption fee of two percent (2%), his average cost basis would be approximately \$10.71 per share (\$10 per share purchase price + \$0.51 per share deferred sales charge + \$0.20 per share redemption fee), even though the number of shares purchased and sold were the same. In this example, as in Mr. Lee's case, because of this calculation, a capital loss is realized even though the sale price is greater than the purchase price.

Because the calculation of an Average Cost Basis quickly becomes complicated (the above example is an extremely simplified version), it is recommended that an investor rely upon his broker do the calculation using sophisticated computer software. This is exactly what occurred here, as Mr. Lee's broker did the average cost basis calculation. You have provided no reason to demonstrate that this calculation is incorrect or that Mr. Lee relied upon it in bad faith in responding to Judge Alsup's questionnaire.

Finally, as I explained before, the average cost basis is irrelevant to the above-captioned case because the damages at issue in the case are based upon the fees paid by Mr. Lee that were used for undisclosed purposes (*i.e.* kickbacks to brokers and other selling agents) and not upon an average cost basis capital gains/loss calculation.

I hope this clears up any misunderstanding you have regarding Mr. Lee's certification and questionnaire responses. At the very least, I think it demonstrates that Mr. Lee's certificate and questionnaire were completed in good faith, are correct and accurate, and that there is no basis for any motion practice. Consequently, we request that you file today a notification with the Court that these issues have been resolved.

Sincerely,



Michael R. Reese

Counsel for Plaintiff Edward Lee

cc: Jason M. Skaggs
Jeremy Kamras
Deborah Clark-Weintraub